



MASSACHUSETTS

# Workforce Investment Act

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**WIA Communication No. 01-35**

☒ **Policy**   ☐ **Information**

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**To:** Chief Elected Officials  
Workforce Investment Board Chairs  
Workforce Investment Board Directors  
Title I Administrators  
Career Center Directors  
Title I Fiscal Officers  
DET Regional Directors  
DET Area Directors

**cc:** WIA State Partners

**From:** Jonathan Raymond, President  
Commonwealth Corporation

Laurence K. Jones, III, Director of Civil Rights  
Commonwealth's WIA EEO Officer  
Division of Employment and Training

**Date:** August 2, 2001

**Subject:** Equal Opportunity/Nondiscrimination

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**Purpose:** The purpose of this policy is to transmit the Commonwealth's Policy regarding Equal Opportunity and Nondiscrimination in Workforce Investment Act (WIA) Title I Programs.

**Background:** The Workforce Investment Act (WIA) Regulations at 29 CFR Part 37.54 require that each Governor establish and adhere to a Methods of Administration designed to give a reasonable guarantee that all recipients will comply, and are complying with, the nondiscrimination and equal opportunity provisions of WIA

The WIA regulations also include requirements for publication and dissemination of Equal Opportunity policy. Specific language regarding Equal Opportunity

Equal Opportunity/Nondiscrimination

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policy notice, contract assurance, and statements to be included in information and materials distributed to the public is articulated in the regulations.

**Policy:** The Commonwealth's discrimination/equal opportunity policy is specified herein. Specific procedures and related materials are provided as attachments to this policy. The policy shall apply to all Massachusetts recipients of WIA Title I funds including state agencies, state and local workforce investment boards, One-Stop Career Center operators, Career Center partners, local WIA administrative entities, their service providers, including eligible training providers and entities providing non-WIA funds or resources to meet matching requirements or other conditions under WIA.

Any provisions contained in the Workforce Investment Act, its regulations, or other applicable laws and regulations shall apply even if they are not explicitly stated in this policy. Nothing in this policy shall be construed to contradict prevailing laws and requirements for equal opportunity matters.

**Action**

**Required:** WIBs/Program Operators/Service Providers must comply with this Policy and with the Equal Opportunity/Nondiscrimination Provisions of WIA at 29 CFR Part 37. Each entity receiving Title I funds must develop and implement an Equal Opportunity/Nondiscrimination Policy in accordance with these requirements.

**Effective:** Immediately.

**References:** WIA Public Law 105-220  
WIA Regulations at 20 CFR652 et al  
29 CFR Part 37

**Inquiries:** Questions regarding this policy may be addressed to Rosemary Graham 617-727-8158 extension 1325.

**Filing:** Please file this in your notebook of previously issued WIA Communication Series Issuances as #01-35

## I. DEFINITIONS

**Administrative Law Judge** - A person appointed as provided in 5 U.S.C. 3105 and 5 CFR 930.203, and qualified under 5 U.S.C. 557, to preside at hearings held under the nondiscrimination and equal opportunity provisions of WIA.

**Aid, benefits, Services, or Training** - WIA Title I--financially assisted services, financial or other aid, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. "Aid, benefits, services, or training" includes, but is not limited to:

- (1) Core and intensive services;
- (2) Education or training;
- (3) Health, welfare, housing, social service, rehabilitation, or other supportive services;
- (4) Work opportunities; and
- (5) Cash, loans, or other financial assistance to individuals.

As used in this policy, the term includes any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIA.

**Applicant** - An individual who is interested in being considered for WIA Title I--financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. See also the definitions of "application for benefits," "eligible applicant/registrant," "participant," "participation," and "recipient" in this section.

**Applicant for employment** - A person or persons who make(s) application for employment with a recipient of Federal financial assistance under WIA Title I.

**Application for assistance** - The process by which required documentation is provided to the Governor, recipient, or Department before and as a condition of receiving WIA Title I financial assistance (including both new and continuing assistance).

**Application for benefits** - The process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving WIA Title I--financially assisted aid, benefits, services, or training from a recipient.

**Auxiliary aids or services** includes the following -

- (1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs/TTYs), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments;
- (2) Qualified readers, taped texts, audio recordings, brailled materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments;
- (3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

**Beneficiary** - The individual or individuals intended by Congress to receive aid, benefits, services, or training from a recipient.

**CRC** - The Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

**Director** - The Director, Civil Rights Center (CRC), Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, or a designee authorized to act for the Director.

**Disability** - With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase physical or mental impairment means--

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

**(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.**

(ii) The phrase physical or mental impairment includes, but is not limited to, such contagious and non-contagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The phrase "physical or mental impairment" does not include homosexuality or bisexuality.

(2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is regarded as having an impairment means--

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the recipient as being such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the recipient as having such an impairment.

**Discrimination on the ground of citizenship** - A denial of participation in programs or activities financially assisted in whole or in part under Title I of WIA to individuals on the basis of their status as citizens or nationals of the United States, lawfully admitted permanent resident

aliens, refugees, asylees, and parolees, or other immigrants authorized by the Attorney General to work in the United States.

**Eligible applicant/registrant** – An individual who has been determined eligible to participate in one or more WIA Title I--financially assisted programs or activities.

**Employment practices** - A recipient's practices related to employment, including but not limited to:

- (1) Recruitment or recruitment advertising;
- (2) Selection, placement, layoff or termination of employees;
- (3) Upgrading, promotion, demotion or transfer of employees;
- (4) Training, including employment-related training;
- (5) Participation in upward mobility programs;
- (6) Deciding rates of pay or other forms of compensation;
- (7) Use of facilities; or
- (8) Deciding other terms, conditions, benefits and/or privileges of employment.

**Employment-related training-** Training that allows or enables an individual to obtain employment.

**Entity** - Any person, corporation, partnership, joint venture, sole proprietorship, unincorporated association, consortium, Indian tribe or tribal organization, Native Hawaiian organization, and/or entity authorized by State or local law; any State or local government; and/or any agency, instrumentality or subdivision of such a government.

**Facility** - All or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase “real or personal property” in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

**Federal grantmaking agency** - Federal agency that provides financial assistance under any Federal statute.

**Financial assistance** - Any of the following:

- (1) Any grant, subgrant, loan, or advance of funds, including funds extended to any entity for payment to or on behalf of participants admitted to that entity for training, or extended directly to such participants for payment to that entity;
- (2) Provision of the services of grantmaking agency personnel, or of other personnel at the grantmaking agency's expense;
- (3) A grant or donation of real or personal property or any interest in or use of such property, including:
  - (a) Transfers or leases of property for less than fair market value or for reduced consideration;

- (b) Proceeds from a subsequent sale, transfer, or lease of such property, if the grantmaking agency's share of the fair market value of the property is not returned to the grantmaking agency; and
- (c) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:
  - (i) Without consideration,
  - (ii) At a nominal consideration, or
  - (iii) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;
- (4) Waiver of charges that would normally be made for the furnishing of services by the grantmaking agency; and
- (5) Any other agreement, arrangement, contract or subcontract (other than a procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under the statute or policy that authorizes assistance by the grantmaking agency.

**Financial assistance under Title I of WIA** - Any of the following, when authorized or extended under WIA Title I:

- (1) Any grant, subgrant, loan, or advance of Federal funds, including funds extended to any entity for payment to or on behalf of participants admitted to that entity for training, or extended directly to such participants for payment to that entity;
- (2) Provision of the services of Federal personnel, or of other personnel at Federal expense;
- (3) A grant or donation of Federal real or personal property or any interest in or use of such property, including:
  - (a) Transfers or leases of property for less than fair market value or for reduced consideration;
  - (b) Proceeds from a subsequent sale, transfer, or lease of such property, if the Federal share of the fair market value of the property is not returned to the Federal Government; and
  - (c) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:
    - (i) Without consideration,
    - (ii) At a nominal consideration, or
    - (iii) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;
- (4) Waiver of charges that would normally be made for the furnishing of Government services; and
- (5) Any other agreement, arrangement, contract or subcontract (other than a Federal procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under WIA Title I.

**Fundamental alteration** means:

- (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or

(2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include:

- (a) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification;
- (b) The overall financial resources of the facility or facilities involved in the provision of the modification, including:
  - (i) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and
  - (ii) The effect the modification would have on the expenses and resources of the facility or facilities;
- (c) The overall financial resources of the recipient, including:
  - (i) The overall size of the recipient;
  - (ii) The number of persons aided, benefited, served, trained, or employed by the recipient; and
  - (iii) The number, type and location of the recipient's facilities;
- (d) The type of operation or operations of the recipient, including:
  - (i) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and
  - (ii) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and
- (e) The impact of the modification upon the operation of the facility or facilities, including:
  - (i) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and
  - (ii) The impact on the facility's ability to carry out its mission. Governor means the chief elected official of any State or his or her designee.

**Grant applicant** means an entity that submits the required documentation to the Governor, recipient, or Department, before and as a condition of receiving financial assistance under Title I of WIA.

**Grantmaking agency** means an entity that provides Federal financial assistance.

**Guideline** means written informational material supplementing an agency's regulations and provided to grant applicants and recipients to provide program-specific interpretations of their responsibilities under the regulations.

**Illegal use of drugs** means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, as amended (21 U.S.C. 812). "Illegal use of drugs" does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

**Individual with a disability** means a person who has a disability, as defined in this section.

- (1) The term "individual with a disability" does not include an individual on the basis of:
- (i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
  - (ii) Compulsive gambling, kleptomania, or pyromania; or
  - (iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

(2) The term "individual with a disability" also does not include an individual who is currently engaging in the illegal use of drugs, when a recipient acts on the basis of such use. This limitation does not exclude as an individual with a disability an individual who:

- (i) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- (ii) Is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- (iii) Is erroneously regarded as engaging in such use, but is not engaging in such use, except that it is not a violation of the nondiscrimination and equal opportunity provisions of WIA for a recipient to adopt or administer reasonable policies or procedures, including, but not limited to, drug testing, designed to ensure that an individual described in paragraph (1)(i) or (1)(ii) of this definition is no longer engaging in the illegal use of drugs.

(3) With regard to employment, the term "individual with a disability" does not include any individual who:

- (i) Is an alcoholic:
  - (A) Whose current use of alcohol prevents such individual from performing the duties of the job in question, or
  - (B) Whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others; or
- (ii) Has a currently contagious disease or infection, if:
  - (A) That disease or infection prevents him or her from performing the duties of the job in question, or
  - (B) His or her employment, because of that disease or infection, would constitute a direct threat to the health and safety of others.

**Labor market area** means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in accordance with either criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas, or similar criteria established by a Governor.

**Noncompliance** means a failure of a grant applicant or recipient to comply with any of the applicable requirements of the nondiscrimination and equal opportunity provisions of WIA.

**On-the-Job Training (OJT)** means training by an employer that is provided to a paid participant while the participant is engaged in productive work that:

- (1) Provides knowledge or skills essential to the full and adequate performance of the job;
- (2) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and
- (3) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.



**Participant** means an individual who has been determined to be eligible to participate in, and who is receiving aid, benefits, services or training under, a program or activity funded in whole or in part under Title I of WIA. ``Participant" includes, but is not limited to, applicants receiving any service(s) under state Employment Service programs, and claimants receiving any service(s) under state Unemployment Insurance programs.

**Participation** is considered to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefits, services, or training provided under Title I of WIA.

**Population eligible to be served** means the total population of adults and eligible youth who reside within the labor market area that is served by a particular recipient, and who are eligible to seek WIA Title I-financially assisted aid, benefits, services or training from that recipient. See the definition of ``labor market area" in this section.

**Prohibited ground** means any basis upon which it is illegal to discriminate under the nondiscrimination and equal opportunity provisions of WIA or this part, i.e., race, color, religion, sex, national origin, age, disability, political affiliation or belief, and, for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity.

**Public entity** means:

- (1) Any State or local government; and
- (2) Any department, agency, special purpose district, workforce investment board, or other instrumentality of a State or States or local government.

**Qualified individual with a disability** means:

- (1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question;
- (2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

**Qualified interpreter** means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

**Reasonable accommodation**

- (1) The term ``reasonable accommodation" means:
  - (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or
  - (ii) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to:

- (A) The environment where work is performed or aid, benefits, services, or training are given; or
  - (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; or
  - (iii) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.
- (2) Reasonable accommodation includes, but is not limited to:
- (i) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and usable by individuals with disabilities; and
  - (ii) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities.
- (3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

**Recipient** means any entity to which financial assistance under WIA

**Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to him or her under WIA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient.**

**“Recipient” includes, but is not limited**

**to:**

- (1) State-level agencies that administer, or are financed in whole or in part with, WIA Title I funds;
- (2) State Employment Security Agencies;
- (3) State and local Workforce Investment Boards;
- (4) LWIA grant recipients;
- (5) One-Stop operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps contractors and center operators, excluding the operators of federally-operated Job Corps centers;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions; and
- (12) Other National Program recipients.

In addition, for purposes of this part, One-Stop partners, as defined in section 121(b) of WIA, are treated as ``recipients," and are subject to the nondiscrimination and equal opportunity requirements, to the extent that they participate in the One-Stop delivery system.

**Registrant** means the same as ``applicant" for purposes of this part.

**Respondent** means a grant applicant or recipient (including a Governor) against which a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIA or this part.

**Secretary** means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

**Sectarian activities** means religious worship or ceremony, or sectarian instruction.

**Section 504** means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally-financed and conducted programs and activities.

**Service provider** means:

- (1) Any operator of, or provider of aid, benefits, services, or training to:
  - (a) Any WIA Title I--funded program or activity that receives financial assistance from or through any State or LWIA grant recipient; or
  - (b) Any participant through that participant's Individual Training Account (ITA); or
- (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

**Small recipient** means a recipient who:

- (a) Serves a total of fewer than 15 beneficiaries during the entire grant year, and
- (b) Employs fewer than 15 employees on any given day during the grant year.

**Supportive services** means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in WIA Title I-financially assisted programs and activities, as consistent with the provisions of WIA.

**Terminee** means a participant whose participation in the program terminates, voluntarily or involuntarily, during the applicable program year.

**Title VI** means Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., as amended, which forbids recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin.

**Transferee** means a person or entity to whom real or personal property, or an interest in such property, is transferred.

**Undue hardship** has different meanings, depending upon whether it is used with regard to reasonable accommodation of individuals with disabilities, or with regard to religious accommodation.

(1) Reasonable accommodation of individuals with disabilities:

- (i) In general, ``undue hardship" means significant difficulty or expense incurred by a recipient, when considered in light of the factors set forth in paragraph (ii).
- (ii) Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include:

- (A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation;
- (B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including:
  - (1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and
  - (2) The effect the accommodation would have on the expenses and resources of the facility or facilities;
- (C) The overall financial resources of the recipient, including:
  - (1) The overall size of the recipient,
  - (2) The number of persons aided, benefited, served, trained, or employed by the recipient, and
  - (3) The number, type and location of the recipient's facilities;
- (D) The type of operation or operations of the recipient, including:
  - (1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient, and
  - (2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient's workforce; and
- (E) The impact of the accommodation upon the operation of the facility or facilities, including:
  - (1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties, and
  - (2) The impact on the facility's ability to carry out its mission.

(2) Religious accommodation. For purposes of religious accommodation only, ``undue hardship" means any additional, unusual costs, other than de minimis costs, that a particular accommodation would impose upon a recipient.

**WIA** means the Workforce Investment Act of 1998, Pub. L. 105-220.

**WIA Title I-funded program or activity** means:

- (1) A program or activity, operated by a recipient and funded, in whole or in part, under Title I of WIA, that provides either:
  - (i) Any aid, benefits, services, or training to individuals; or
  - (ii) Facilities for furnishing any aid, benefits, services, or training to individuals;
- (2) Aid, benefits, services, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIA Title I; or

(3) Aid, benefits, services, or training provided with the aid of any non-WIA Title I funds, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIA Title I financial assistance.

## **II. DESIGNATION OF EQUAL OPPORTUNITY OFFICER**

Each Recipient shall designate an Equal Opportunity Officer responsible for coordinating its obligations under WIA for nondiscrimination and equal opportunity requirements. On equal opportunity matters, the Equal Opportunity Officer must report directly to the organization's chief executive officer, and may not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer. Local WIA agency Equal Opportunity Officers shall submit to the State Equal Opportunity Officer copies of Equal Opportunity complaints filed at the local level. The State EO Officer serves as the focal point for EO coordination within DET and the Commonwealth Corporation's WIA programs.

The name, business address, telephone and TDD/TTY numbers of the Equal Opportunity Officer shall be made public and included in such information as the Equal Opportunity policy statement and materials defining how to file a complaint.

Service providers and Small Recipients (as defined above) are not required to designate an Equal Opportunity Officer. The obligation for ensuring service provider compliance with the nondiscrimination and equal opportunity provisions of WIA rests with the Local Workforce Investment Area.

The Equal Opportunity Officer (EO Officer) is responsible for coordinating the recipient's responsibilities under 29 CFR Part 37 for the WIA Title I Program. These responsibilities include:

1. Serving as the recipient's liaison with the Civil Rights Center;
2. Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIA Title I funds from it, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations under WIA Title I and 29 CFR Part 37;
3. Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
4. Developing and publishing the recipient's procedures for processing discrimination complaints under 29 CFR 37.76 through 37.79, and making sure that those procedures are followed;
5. Reporting directly to the appropriate official ("including, but not limited to, the State WIA Director, Governor's WIA Liaison, Job Corps Center Director, SESA Administrator, or LWIA grant recipient) about equal opportunity matters;
6. Undergoing training (at the recipient's expense) to maintain competency, if the Director requires him or her, and/or his or her staff, to do so; and
7. If applicable, overseeing the development and implementation of the recipient's Methods of Administration.

Each recipient must:

1. Make the Equal Opportunity Officer's name, title, address, and telephone number public;
2. Ensure that the EO Officer's identity and contact information appears on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs;
3. Assign sufficient staff and resources to the EO Officer, and provide him/her with the necessary support of top management, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37;
4. Ensure the EO Officer and his/her staff are afforded the opportunity to receive the training necessary and appropriate to maintain competency;
5. Require all subrecipients, except small recipients as defined in 29 CFR 37.4, to designate an EO Officer and assign the responsibilities described above to the EO Officer; and
6. Require all subrecipients to ensure that information regarding the EO Officer is made public and to provide appropriate support to the EO Officer;
7. Require small recipients to designate an individual who will be responsible for developing and publishing of complaint procedures, and the processing of complaints, as explained in 29 CFR 37.76 through 37.79.

Recipients must identify any staff who perform duties that support WIA EO activities (e.g., clerical, data analysis), develop a position description for each such staff member, and identify the average hours per week spent on EO-related activities by each such staff member (if positions are not devoted to WIA equal opportunity activities on a full-time basis). In addition, each recipient must develop an EO budget and identify the source of funds for these activities.

The obligation for ensuring service provider compliance with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37 rests with CommCorp or the LWIA grant recipient, whichever contracts with the service provider.

Each Local Workforce Investment Area must have designated EO officers in each of their One-Stop Career Centers. A sample job description for the local level EO Officer (Civil Rights Manager – Career Center Level) is contained in Attachment A.

### **III. EQUAL OPPORTUNITY/DISCRIMINATION COMPLAINTS**

A separate WIA Communication is being issued to delineate the requirements for recipients to develop complaint procedures for complaints of discrimination on the basis of race, color, religion, sex, age, disability, national origin, political affiliation or belief, and for WIA beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity which may arise in the administration or operation of any WIA funded program or activity.

All information and criminal complaints involving fraud, waste, abuse or criminal activity shall be reported directly and immediately to the Department of Labor, Office of the Inspector General, Office of Investigations. [20 CFR 667.505]

## IV. EQUAL OPPORTUNITY NOTICE AND COMMUNICATION

The Commonwealth and its subrecipients must provide initial and continuing notice that they do not discriminate on any prohibited ground to:

1. Registrants, applicants, and eligible applicants/registrants;
2. Participants;
3. Applicants for employment and employees;
4. Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
5. Subrecipients that receive WIA Title I funds from the recipient; and
6. Members of the public, including those with impaired vision or hearing.

Notice provided by Massachusetts Title I programs must contain the specific wording required by 20 CFR 37.30, *Equal Opportunity is the Law* (Attachment C1).

Massachusetts Title I programs must not discriminate in any of the following areas:

1. Deciding who will be admitted, or have access, to any WIA Title I-financially assisted program or activity;
2. Providing opportunities in, or treating any person with regard to, such a program or activity; or
3. Making employment decisions in the administration of, or in connection with, such a program or activity.

At a minimum, the required notice will be:

1. Posted prominently, in reasonable numbers and places;
2. Disseminated in internal memoranda and other written or electronic communications;
3. Included in handbooks or manuals; and
4. Made available to each participant and made part of each participant's file.

Massachusetts Title I Programs must provide this notice in appropriate formats to individuals with visual impairments, based on the individuals' needs, and document this notice.

Recipients are responsible for meeting the notice requirements (described above) for service providers. For Individual Training Account (ITA) providers, this will be accomplished through the ITA process for individual clients. Recipients must provide the required notice (described above) to providers receiving group contracts.

Recipients must:

- A. indicate that the WIA Title I-financially assisted program or activity in question is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities," in recruitment brochures and all other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I of WIA or the requirements for participation

in the program by recipients and participants. Where such materials indicate that the grant recipient may be reached by telephone, the material will state the telephone number of the TDD/TTY or relay service used by the grant recipient.

- B. ensure that publications or broadcast program information in the news media state that the WIA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA Title I-financially assisted program is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.
- C. not communicate any information that suggests, by text or illustration, that they treat beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited ground specified in 20 CFR 37.35, except as such treatment is otherwise permitted under Federal law or Regulation.

Where a significant number or proportion of the population eligible to be served, or likely to be directly affected, by a WIA Title I-financially assisted program or activity needs services or information in a language other than English in order to be effectively informed about, or able to participate in, the program or activity, recipients will take the following actions:

- a) Consider the scope of the program or activity and the size and concentration of the population that needs services or information in a language other than English; and
- b) Based on those considerations, take reasonable steps to provide services and information in appropriate languages, including the initial and continuing notice and all information that is communicated as described above.

In circumstances other than those described here, recipients will nonetheless make reasonable efforts to meet the particularized language needs of limited-English- speaking individuals who seek services or information from these programs.

Recipients will also include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIA and 20 CFR Part 37, including the right to file a complaint of discrimination with the recipient, the Commonwealth or the Director, in each presentation to orient new participants, new employees, and/or the general public to its WIA Title I-financially assisted program or activity.

Recruitment brochures and other materials routinely made available to the public must include the statements “equal opportunity employer/program” and “auxiliary aids and services are available upon request to individuals with disabilities.”

## **V. DISSEMINATION**

Recipients must maintain a policy on Equal Opportunity/Non-Discrimination. This policy must be made available to all applicants for and participants in WIA Title I programs operated by or through the recipient, as well as to applicants for employment and employees. Each Recipient must distribute its Policy on Equal Opportunity/Non-Discrimination (EO Policy) to all subrecipients that receive WIA Title I funds from the recipient.



1. Registrants, applicants, and eligible applicants/registrants and participants.

Recipients must make available a copy of the EO Policy to each applicant, registrant, eligible applicant/registrant, and participant upon request. The EO Policy must be posted prominently in the facilities where Title I programs are operated. Orientations for registrants, applicants/registrants, and participants must include a discussion of rights under the Equal Opportunity/Non-Discrimination provisions of WIA.

Registrants and/or participants with vision impairment must be given verbal notice of the availability of this policy. Such notice must be documented in the registrant/participant's file.

2. Applicants for employment and employees.

Recipients must provide notice of the availability of the EO Policy to all applicants for employment by including information in its employment ads which states that "[the recipient] is an Equal Opportunity/Non-Discrimination employer" and that "auxiliary aids and services are available upon request to individuals with disabilities". Ads must also state that the Policy is available upon request. Orientations for new employees must include a discussion of rights under the Equal Opportunity/Non-Discrimination provisions of WIA.

3. Employees.

All current employees of the recipient must be provided a copy of the EO Policy. This must be verified by written documentation. A sample form is included as Attachment B. The EO Policy must be posted prominently in the facilities where WIA Title I funded recipients' staff are assigned to work.

4. Unions or Professional Organizations

Recipients must provide the EO Policy to Unions or Professional Organizations with which they hold collective bargaining or professional agreements.

Notices of Equal Opportunity rights must contain specific wording as outlined in 29 CFR 37.30. Sample notices in English and Spanish are included in Attachments C1 through C2.

## **VI. CONTRACTS & AGREEMENTS**

The regulations governing the implementation of the nondiscrimination and Equal Opportunity provisions of WIA require an Equal Opportunity assurance statement to be included in all applications for financial assistance under Title I of WIA and in all contracts. All WIA Recipient plans, contracts and agreements must include the specified assurance. Job training plans, contracts, assurances, and other similar agreements entered into by recipients must be both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity. (See 29 CFR 37.54(b)(2)(iv).) Sample language from Commonwealth Corporation's Title I Master Agreement is contained in Attachment D.

Recipients must comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- I. Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I – financially assisted program or activity;
- II. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;
- III. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- IV. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age;
- V. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs; and
- VI. 29 CFR Part 37, Regulations implementing the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

Recipients must incorporate the requirement to comply with the above Equal Opportunity/Non-Discrimination Laws into their agreements with subrecipients operating programs under Title I of the Workforce Investment Act of 1998. In addition, service providers seeking eligibility to provide training to WIA Title I participants are required to comply with the EO requirements of Title I, as provided for those service providers applying through the ITA Process in the ITA Application terms and conditions.

Each local area and training provider is required to be in compliance with the Americans with Disabilities Act of 1990, and able to provide programmatic and architectural accessibility for individuals with disabilities.

#### Duration of Obligation

Recipients are obligated for the period during which WIA Title I financial assistance is extended. Where the WIA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, recipients are obligated, or (in the case of a subsequent transfer) the transferee is obligated, for the longer of:

1. The period during which the property is used either:
2. For a purpose for which WIA Title I financial assistance is extended; or

3. For another purpose involving the provision of similar services or benefits; or
4. The period during which either:
  - a) The recipient retains ownership or possession of the property; or
  - b) The transferee retains ownership or possession of the property without compensating the Departmental grantmaking agency for the fair market value of that ownership or possession.

### Covenants

For any real property purchased under or transferred into Title I, recipients must include a covenant assuring nondiscrimination and equal opportunity for the period described in the Duration of Obligation in the instrument effecting or recording the following:

1. the transfer of real property, structures, or improvements on real property or structures provided under WIA Title I;
2. any subsequent transfer of such real property they acquire or acquire an interest therein under a program of WIA Title I financial assistance.

When the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right of reverter to the Department in the event of a breach of the covenant.

## **VII. UNIVERSAL ACCESS**

Each Recipient must take appropriate steps to ensure that it is providing universal access to its WIA Title I-financially assisted programs and activities. These steps will involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. Such efforts may include, but are not limited to:

1. Advertising WIA Title I programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
2. Sending notices about openings in WIA Title I programs and/or activities to schools or community service groups that serve various populations; and
3. Consulting with appropriate community service groups about ways in which Title I program operators may improve their outreach and service to various populations.

Recipients must address universal access, including outreach and provision of services to non-English speaking populations and other un-served or under-served populations. Recipients must make efforts (including outreach) to broaden the composition of the pool of those considered for participation or employment in their programs and activities in an effort to include members of both sexes, of the various racial and ethnic groups and of various age groups, as well as individuals with disabilities.

Recipients must also ensure that their web sites for WIA Title I programs are universally accessible. One way to do this is to ensure that the sites are “Bobby” compliant

Bobby is a tool for Web page authors. The Bobby Case works closely with the World Wide Web Consortiums (W3C) in developing evaluation tools that help identify changes to web sites that are needed to enable users with disabilities to more easily use these Web pages.

To be “Bobby” compliant, web sites must:

1. Provide text equivalents for all images and multimedia such as animations, audio, and video.
2. Ensure that all information conveyed with color is also available without color.
3. Identify headers for data tables and make line-by-line reading sensible for layout tables.
4. Provide summaries of graphs and charts.
5. Identify document language and any changes of the language.
6. Organize content logically and clearly, such as with headings, list elements, meaningful links, and navigation bars.
7. Provide alternative content for features (e.g., applets or plug-ins) that may not be supported.

In order to be Bobby Approved, a web site must pass all of the Priority 1 accessibility checkpoints.

## **VII. COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973**

All service providers and recipients of WIA Title I financial assistance are required to comply with the requirements of 29 CFR Part 37. All contracts and other agreements must contain required assurances against discrimination. No programs or services may discriminate against an individual on the basis of a disability or otherwise limit a qualified individual from participating in or benefiting from aid, benefits, services or training. All Title I financially assisted programs must administer their activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. Each recipient and service provider must have facilities that fully comply with the Americans with Disabilities Act. In addition, all recipients and services providers must be able to provide reasonable physical and programmatic accommodations to individuals with disabilities. Massachusetts Executive Order 246 requires all state and local entities to take affirmative action to insure equal access to persons with disabilities in all areas of employment and to make reasonable accommodations where necessary.

All recipients must:

1. Meet their obligation not to discriminate on the basis of disability.
2. Provide reasonable accommodation for individuals with disabilities.
3. Provide reasonable modification of policies, practices and procedures.
4. Provide architectural accessibility for individuals with disabilities.
5. Provide programmatic accessibility for persons with disabilities.
6. Provide for and adhere to a schedule to evaluate job qualifications to ensure that the qualifications do not discriminate on the basis of disability.

7. Limit preemployment/employment medical inquiries to those permitted by and in accordance with WIA Section 188, Section 504, the Americans with Disabilities Act of 1990, and their implementing regulations.
8. Ensure the confidentiality of medical information provided by registrants, applicants, eligible applicants/registrants, participants, employees, and applicants for employment.
9. Administer their WIA Title I-financially assisted programs and activities so that each individual with a disability participates in the most integrated setting appropriate to that individual.
10. Be able to communicate with persons with disabilities as effectively as with others.

## **IX. DATA AND INFORMATION COLLECTION AND MAINTENANCE**

Recipients will collect such data and maintain such records, in accordance with procedures prescribed by the Director of the Civil Rights Center, as the Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA found at 29 CFR Part 37. The system and format in which the records and data are kept must be designed to allow the Commonwealth and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with Section 188 of WIA and 29 CFR Part 37.

Such records must include, but are not limited to:

1. records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment
2. the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, employee, and applicant for employment.

This information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

The recipient will maintain, and submit to CRC upon request, a log of complaints filed with it that allege discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity. The log will include:

1. Name and address of the complainant;
2. A description of the complaint;
3. Date the complaint was filed;
4. Disposition of the complaint;
5. And other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential. Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

All registrant/participant data must be maintained by the One-Stop Career Center staff in the Massachusetts One-Stop Employment System (MOSES) database. The screens which contain the required data elements must be completed

Complaints at the local level must be filed through the Career Centers, including those related to service providers. The Commonwealth will be issuing a policy on complaint processing, Grievance Procedures for EO and Discrimination Complaints.

Recipients must promptly notify the Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. The notification will include:

1. The names of the parties to the action or lawsuit;
2. The forum in which each case was filed;
3. The relevant case numbers.

As a grant applicant (as part of its application) and recipient (as part of a compliance review conducted under 20 CFR 37.73 or monitoring activity carried out under 20 CFR 37.65), each recipient must provide the following information:

1. The name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the recipient to be in noncompliance, during the two years before the grant application was filed or CRC began its examination; and
2. Information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the recipient during the two years before the application or renewal application, compliance review, or monitoring activity. This information will include:
  - a) names of the parties;
  - b) forum in which each case was filed; and
  - c) relevant case numbers.

Recipients must, where required by the Director, provide in a timely manner:

1. any information and data necessary to investigate complaints and conduct compliance reviews on grounds prohibited under the nondiscrimination and equal opportunity provisions of WIA and this part;
2. the particularized information and/or submit the periodic reports that the Director considers necessary to determine compliance with the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37;

3. the particularized information necessary to determine whether or not the recipient, if financially assisted, would be able to comply with the nondiscrimination and equal opportunity provisions of WIA or this part.

Recipients must maintain the following records for a period of not less than three years from the close of the applicable program year:

1. The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and
2. Such other records as are required under 20 CFR Part 37 or by the Director.

Records regarding complaints and actions taken on the complaints will be maintained by the recipient for a period of not less than three years from the date of resolution of the complaint. Please refer to Commonwealth Corporation's Records Retention Policy 00-23 issued May 31, 2000.

#### Access to sources of information

Recipients must permit access by the Commonwealth and the Director during normal business hours to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigations, for the purpose of conducting complaint investigations, compliance reviews, monitoring activities associated with the recipients' development and implementation of an Equal Opportunity/Nondiscrimination Policy, and inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37.

Asserted considerations of privacy or confidentiality will not be a basis for withholding information from the Commonwealth or CRC and will not bar the Commonwealth or CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIA and 20 CFR Part 37.

Whenever any information that the Director asks the recipients to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the recipient will certify to CRC that it has made efforts to obtain the information and the agency, institution, or person has failed or refused to provide it. This certification must list the name and address of the agency, institution, or person that has possession of the information and the specific efforts the recipient made to obtain it.

#### Maintaining the confidentiality of the information collected

Recipients must keep confidential, to the extent possible, consistent with a fair determination of the issues, the identity of any individual who furnishes information relating to, or assisting in, an investigation or a compliance review, including the identity of any individual who files a complaint. Recipients must protect from retaliation any individual whose identity it is necessary to disclose, as required by 20 CFR 37.11.

Recipients must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has:

1. Filed a complaint alleging a violation of Section 188 of WIA or 20 CFR Part 37;
2. Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of WIA or this part;
3. Furnished information to, or assisted or participated in, an investigation, review, hearing, or any other activity related to any of the following:
  - i. Administration of the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37;
  - ii. Exercise of authority under those provisions; or
  - iii. Exercise of privilege secured by those provisions, or
  - iv. Otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions of WIA or 20 CFR Part 37.

## **X. MONITORING RECIPIENTS FOR COMPLIANCE**

Recipients must monitor all recipients funded by them annually to ensure that they comply with the requirements of 29 CFR Part 37. Monitoring tools should contain questions regarding compliance with EO requirements. Recipients must monitor to evaluate the extent to which its recipients are:

1. Complying with administrative obligations of 29CFR Part 37, including, but not limited to:
  - a) Assurances
  - b) Equal Opportunity Officers
  - c) Notice and Communication
  - d) Data and information collection and maintenance
  - e) Universal access
  - f) Complaint processing procedures.
2. Performing the responsibilities required of such recipients.
3. Conducting equal opportunity monitoring/evaluation reviews of applicants for and recipients of WIA Title I financial assistance (including monitoring assurances and programmatic and architectural accessibility).
4. Imposing sanctions and corrective actions for violations noted by a recipient during its monitoring reviews.
5. Ensuring policy development, communication, and training are carried out.
6. Ensuring that their programs and activities are operating in a nondiscriminatory manner and ensuring equal opportunity.

Recipients must take steps to ensure that their programs and activities are operating in a nondiscriminatory manner and ensuring equal opportunity, including but not limited to:

1. Conducting analyses, by race/ethnicity and sex, of program and employment activity, including but not limited to rates of application, placement, and termination, to determine if significant differences exist, and



2. Conducting follow-up monitoring to determine the cause of any such differences, through the analysis of the records of individual registrants, applicants, eligible applicants/registrants, employees and applicants for employment; interviews; and other appropriate techniques.

## **XI. COMPLAINT PROCESSING PROCEDURES**

Recipients must develop policies and procedures to ensure that complaints are processed in accordance with the requirements of the WIA Equal Opportunity and Nondiscrimination Regulations at 29 CFR Part 37 and the Commonwealth Corporation's Grievance Procedures for EO and Discrimination Complaints Policy which will be issued through the WIA Communications Series.

Recipients are required to:

Develop and publish complaint procedures, which, at a minimum:

1. Provide for the issuance of a written Notice of Final Action within 90 days of the date on which the complaint is filed.
2. Contain the following elements:
  - a) Initial, written notice acknowledging complaint receipt.
  - b) Notice of the complainant's rights to be represented in the complaint process.
  - c) A written list of the issues raised in the complaint, and, for each issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.
  - d) A period for fact-finding or investigation of the circumstances underlying the complaint.
  - e) A period for resolution, including methods for Alternative Dispute Resolution.
  - f) A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed that contains all the required elements.

Please refer to CommCorp's Policy on Grievance Procedures for EO and Discrimination Complaints for more information.

## **XII. CORRECTIVE ACTIONS/SANCTIONS**

Each recipient must develop a policy regarding Non Compliance Corrective Actions/Sanctions for Discrimination Violations. This must incorporate the standard for corrective and remedial actions to be applied when violations of WIA section 188 or 29 CFR part 37 are found. Corrective and remedial actions must be designed to completely correct each violation. For each corrective action, a time frame should be established that sets the minimum time necessary to completely correct the violation. In the case of a finding of discrimination, the procedures must provide, where appropriate, for retroactive relief (including but not limited to back pay) and prospective relief (e.g., training, policy development and communication) to ensure that the discrimination does not recur. The recipient must develop procedures for follow-up monitoring to ensure that commitments to take corrective action and remedial action are fulfilled. The violating recipient must be required to submit reports regarding actions to correct the

violation(s). Sanction procedures to be followed where voluntary compliance cannot be achieved must be developed.

## ATTACHMENT A

### THE CIVIL RIGHTS MANAGER (Career Center Level)

The Career Center Director is assisted by (Name), who serves as EO/AA in his/her position as Civil Rights Manager.

The Civil Rights Manager is a highly placed person who reports directly to the Career Center Director. The Civil Rights Manager is responsible for implementing the Equal Opportunity and non-discrimination regulations.

The Civil Rights Manager is provided with sufficient authority, top management support, and staffing, in order to execute his/her responsibilities, and is identified in all internal and external communications regarding the Career Center's programs.

The Civil Rights Manager and appropriate staff work with commitment to this program and possess an ability to work and communicate with others to achieve the Career Center's goals. The staff possesses sensitivity and awareness relative to the varied ways in which discrimination occurs, with extensive knowledge and experience in civil rights precepts, policies, rules, regulations and guidelines.

The Civil Rights Manager, shall be responsible for:

1. Planning, developing, and implementing AA policies involving the budget, personnel, recruitment, contract compliance, and consultant contracts;
2. Conduct quarterly audits of hiring and promotion patterns, and training programs, in order to remove barriers to AA goals and objectives;
3. Submit Career Center proposals to the Division of Employment and Training Director of Civil Rights for his/her approval and his/her review subsequent to implementation.
4. Reviewing Career Center budget and policies to ensure EO/AA for protected groups and to prevent possible adverse impact on these groups;
5. Have monthly meetings with Career Center authorities to review goals, objectives and pending cases, and other pertinent information;
6. Participate in all programs pertinent or particular to the Career Center, which may impact on protected group members, especially in the area of the development of policies and procedures (i.e., training, recruitment, classification);
7. Conduct confidential meetings with employees and customers who request information on Career Center policies (i.e., programs, and training);
8. Have periodic meetings and discussions with managers and supervisors to advise them of their responsibilities, and their accountability, in the area of AA;
9. Reviewing the progress of AA goals to ensure implementation of Career Center AA policies;
10. Meet with protected group member organizations, and organizations concerned with issues of importance to members of protected groups;
11. Monitor and review, where appropriate, the qualifications of all employees to assure that protected group members are given full opportunities for training and promotion;

12. Implement the Persons with Disabilities and Vietnam Era Veterans Programs, the Resolution Process; and
13. Utilizing all means authorized by Commonwealth of Massachusetts Executive Orders, State and Federal laws which are necessary and appropriate for carrying out this plan.

**ATTACHMENT B**

[Recipient's Name]  
Equal Opportunity/Non-Discrimination

Employee's  
Printed Name: \_\_\_\_\_

Department: \_\_\_\_\_

I have received a copy of and have read the [Recipient's] Equal Opportunity/Non-Discrimination Policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

[Recipient's] EO Officer is:

Name or EO Officer  
Equal Opportunity Officer  
[Recipient Name]  
[Address]  
[Telephone]  
[TDD/TTY telephone]

(To be placed in employee's personnel file.)

## **EQUAL OPPORTUNITY IS THE LAW**

**It is against the law for this recipient of Federal financial assistance to discriminate on the following basis:**

**Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title-1 financially assisted program or activity.**

**The recipient must not discriminate in any of the following areas:**

**Deciding who will be admitted, or have access, to any WIA Title 1-financially assisted program or activity; Providing opportunities in, or treating any person with regard to, such program or activity; or Making employment decisions in the administration of, or in connection with, such a program or activity.**

### **WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION**

**If you think you have been subjected to discrimination under a WIA Title 1-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:**

**The recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NM, Room N-4123, Washington, DC 20210.**

**If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).**

**If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with the CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does not give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.**

### **FOR INFORMATION OR TO FILE A COMPLAINT, CONTACT**

**(Local WIA Recipient  
Equal Opportunity Officer  
Name and Address)**

**or      Director  
Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW  
Room N-4123  
Washington, DC 20210**

**Verizon Telephone Relay Service for TDD Users: 1-800-439-2370, Voice:1-800-439-0183**

**Auxiliary aids and services are available upon request to individuals with disabilities  
Equal Opportunity Employer/ Program**

**IGUALDAD DE OPORTUNIDAD ES LA LEY**

Es contra la ley que este destinatario de asistencia financiera federal discrimine por las siguientes razones:

En contra de cualquier individuo en los Estados Unidos por razón de, raza, color, religión, sexo, edad, incapacidad, origen nacional, afiliación política o credo; y En contra de cualquier beneficiario de programas asistidos financieramente bajo el Título I de "Workforce Investment Act" del 1998 (WIA), por razón del estatus de ciudadanía siendo un inmigrante legalmente autorizado para trabajar en los Estados Unidos o de su participación en cualquiera de los programas o actividades financieramente asistidos por WIA Título I.

El destinatario no discriminará en ninguna de las siguientes áreas:

Decidiendo quien será admitido o tendrá acceso a cualquiera de los programas o actividades de WIA asistidos financieramente por el Título I; Proveyendo oportunidades en o el tratamiento de cualquier persona con relación a semejante programa o actividad;  
o en la toma de decisiones de empleo en las administraciones de o en conexión con semejante programa o actividad.

**QUE HACER SI USTED CREE QUE HA EXPERIMENTADO DISCRIMINACIÓN?**

Si usted cree que ha estado sujeto a discriminación bajo cualquiera de los programas o actividades de WIA asistidos financieramente por el Título I, usted puede presentar una querrela dentro de los primeros 180 días después de la alegada violación al Oficial de Oportunidad de Igualdad (Equal Opportunity Officer) del destinatario (o la persona designada por el destinatario para este propósito): o

El director del Centro de Derechos Civiles (Civil Rights Center (CRC)), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

Si usted presenta un querrela al destinatario, deberá esperar hasta que el destinatario expida una Notificación de Acción Final por escrito o hasta que pasen 90 días (lo primero que suceda), antes de presentar la querrela al Centro de Derechos Civiles (Civil Rights Center) (vea la dirección arriba).

Si el destinatario no le provee una Notificación De Acción Final por escrito dentro de 90 días de la fecha cuando usted presentó su querrela, usted no tiene que esperar que el destinatario expida la notificación antes de presentar su querrela al CRC. Sin embargo, deberá presentar su querrela dentro de 30 días después del límite de 90 días (en otras palabras, 120 días después de haber la querrela al destinatario).

Si el destinatario le expide una Notificación de Acción Final por escrito respondiendo a su querrela pero usted no está satisfecho con la decisión o resolución, usted puede presentar su querrela a CRC. Su querrela deberá ser presentada al CRC dentro de 30 días de la fecha usted reciba su Notificación de Acción Final.

**PARA INFORMACION O PARA REGISTRAR UNA QUERRELA, COMUNIQUESE CON**

(Local WIA Recipient  
Equal Opportunity Officer  
Name and Address)

or

Director  
Civil Rights Center(CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW  
Room N-4123  
Washington, DC 20210

Verizon Relay Service for TDD Users: 1-800-439-2370, Voice:1-800-439-0183

Ayudantes auxiliares y servicios están disponibles para individuos con incapacidades si así lo requieren.  
Programa de oportunidades de igualdad del empleo

## **ATTACHMENT D**

### **Sample Non-Discrimination Employment & Equal Opportunity Contract Language**

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA or WTW, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws: Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I--financially assisted program or activity; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin; Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs. The grant applicant also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States, Massachusetts and [recipient's name] have the right to seek judicial enforcement of this assurance.